

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Interstate Threats Clarification Act, which is a necessary bill to clarify the “level of intent” required to convict someone for making threats to injure or kidnap another person.

I would like to thank Senators DURBIN, WHITEHOUSE, and KLOBUCHAR for cosponsoring the bill.

In June 2015, the Supreme Court issued a decision in *Elonis v. United States*, a case involving a man who was convicted for posting on Facebook “crude, degrading, and violent” threats against his co-workers, ex-wife, law enforcement personnel, and a kindergarten class.

The man started posting the violent and threatening posts after his wife of nearly 7 years left him and took with her their two young children.

The threats made over Facebook caused his ex-wife to feel “extremely afraid” for her life, leading her to obtain a restraining order against him.

But that did not stop the man, who then posted on Facebook to communicate to his ex-wife that she “[f]old up your [restraining order] and put it in your pocket / Is it thick enough to stop a bullet?”

That same month, he continued to make violent posts, including one that indicated that “[e]nough elementary schools in a ten mile radius to initiate the most heinous school shooting ever imagined / And hell hath no fury like a crazy man in a Kindergarten class.”

After viewing the posts, an FBI agent and another investigator visited the man at his home, where he was “polite but uncooperative.” After they left, he posted the following:

Little Agent lady stood so close
Took all the strength I had not to turn the
b**** ghost

Pull my knife, flick my wrist, and slit her throat

Leave her bleedin’ from her jugular in the arms of her partner.

The post went on to threaten what would happen if he was visited again by the agent, including the possible use of explosives.

Due to these threats and others, the man was convicted for making threats to inflict bodily harm under Section 875(c) of Title 18.

This law prohibits the transmission of a communication that contains a threat to injure or kidnap another person.

The man appealed, saying the lower court did not apply the correct level of intent for a conviction.

When the case reached the Supreme Court, the Court overturned the conviction.

The Court found that the law requires the government to prove some type of “wrongful” intent by the man—“negligence” was not enough for a criminal conviction under this law.

The Court’s opinion, however, left significant ambiguity regarding what the government must prove for a conviction under the statute.

The Supreme Court simply did not specify the exact “level of intent” required for a conviction.

Justice Alito highlighted the problem of the ambiguity in his partial dissent, stating, “[a]ttorneys and judges are left to guess” as to the level of intent required.

This ambiguity has left judges and prosecutors in the dark about what the law requires, and has raised concerns among domestic violence victims because prosecutors and judges may now be hesitant to fully enforce the law.

This is why Congressional action is necessary.

The Interstate Threats Clarification Act solves this ambiguity.

It clarifies that, under Section 875(c) of Title 18, the Government has three options to obtain a conviction. It can prove that a defendant either intended, had knowledge, or recklessly disregarded the risk, that the communication would be reasonably interpreted as a threat.

This is exactly what Justice Alito said would be sufficient in his opinion.

As Justice Alito stated when analyzing the statute in the context of the case, “[s]omeone who acts recklessly with respect to conveying a threat necessarily grasps that he is not engaged in innocent conduct.”

I agree.

Someone who posts violent and crude threats to harm or kidnap judges, domestic violence victims, vulnerable members of society, military personnel, and law enforcement personnel, must be held accountable for their reckless conduct.

This bill clarifies for judges and attorneys alike the proof required to convict those who make such threats to injure or kidnap such persons.

I also appreciate the work done by a coalition of domestic violence organizations that have worked with me on the bill, including the National Network to End Domestic Violence, the Domestic Violence Legal Empowerment and Appeals Project, the National Center for Victims of Crime, the American Association of University Women, Futures Without Violence, Jewish Women International, Legal Momentum, National Alliance to End Sexual Violence, National Coalition Against Domestic Violence, the National Domestic Violence Hotline, and the National Resource Center on Domestic Violence.

I also appreciate the strong support for the bill from law enforcement, including the National District Attorneys Association, the Fraternal Order of Police, the Federal Law Enforcement Officers Association, and the Major Cities Chiefs Association.

This bill is necessary to clarify Federal law about criminal threats and ensure that those who send them are prosecuted. I urge my colleagues to support it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3306. Mr. MCCONNELL (for Mr. BLUMENTHAL) proposed an amendment to the resolution S. Res. 298, recognizing Connecticut’s Submarine Century, the 100th anniversary of the establishment of Naval Submarine Base New London, and Connecticut’s historic role in supporting the undersea capabilities of the United States.

TEXT OF AMENDMENTS

SA 3306. Mr. MCCONNELL (for Mr. BLUMENTHAL) proposed an amendment to the resolution S. Res. 298, recognizing Connecticut’s Submarine Century, the 100th anniversary of the establishment of Naval Submarine Base New London, and Connecticut’s historic role in supporting the undersea capabilities of the United States; as follows:

In the second whereas clause in the preamble, strike “donated land and provided funding” and insert “gifted land”.

In the ninth whereas clause in the preamble, strike “Warfare” and insert “Warfighting”.

In the twelfth whereas clause of the preamble, strike “historic ship Nautilus” and insert “Historic Ship NAUTILUS (SSN 571)”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 11, 2016, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 11, 2016, at 10 a.m., to conduct a hearing entitled “The Semiannual Monetary Policy Report to the Congress.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 11, 2016, at 10 a.m., in room SD-215 of the Dirksen Senate Office Building, to conduct a hearing entitled “The President’s Budget for Fiscal Year 2017.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 11, 2016, at 10:15 a.m., to conduct a hearing entitled “Nominations.”

The PRESIDING OFFICER. Without objection, it is so ordered.